

**MINUTES**  
**REGULAR MEETING OF THE CITY COUNCIL**  
**CITY OF MEMPHIS**

**April 21, 2009**

**3:30 P.M. SCHEDULED SESSION**

**3:35 P.M. MEETING COMMENCED**

**ROLL CALL:** William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery

**THE MEETING WAS CALLED TO ORDER**  
**BY SERGEANT-AT-ARMS**

**INVOCATION**

The meeting was opened with prayer by Superintendent Brandon B. Porter from Greater Community Church of God In Christ. Councilwoman Ware presented Superintendent Porter with a certificate naming him Chaplain of the day.

**These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.**

**Mayor Herenton presented his 2010 Budget to the Memphis City Council**

**After Mayor Herenton's presentation, the Chairman announced a 10 minute recess**

**Councilman Flinn made a request to the Chairman to allow people from the audience to speak regarding the budget**

Chairman Lowery recognized the following persons who spoke from the audience:

Yvonne Acey, 5340 Norma Drive, Mphs, TN 38109  
Shelia Collier, 5539 Lyford, Mphs, TN 38119  
Stephanie Fitzgerald, 126 Flicker St., Mphs, TN 38104

3. **RESOLUTION ADOPTING THE UNIVERSITY DISTRICT COMPREHENSIVE PLAN.**

Held to May 5, 2009

4. **ORDINANCE TO ADOPT THE UNIVERSITY DISTRICT OVERLAY (UDO) AS A ZONING TEXT AMENDMENT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5301

Case No. ZTA 08-002

Held to May 5, 2009

5. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5302

Case No. Z08-104

Held to May 5, 2009

37. **RESOLUTION ESTABLISHING A CIVILIAN LAW ENFORCEMENT REVIEW BOARD SPECIAL COMMITTEE.**

**DROPPED**

1. **RESOLUTION APPROVING A PLANNED DEVELOPMENT GENERALLY LOCATED ON THE SOUTH SIDE OF SHELBY DRIVE; +658 FEET EAST OF RIVERDALE ROAD AND EXTENDING SOUTHWARD TO GLENEAGLES DRIVE, CONTAINING 8.57 ACRES AND IS CURRENTLY REGULATED BY THE APPROVED CONDITIONS FOR GLENEAGLES CENTER, VILLAGES OF BENNINGTON PLANNED DEVELOPMENT (P.D. 02-332).**

Case No. PD 09-301

Applicant: NHSS, LLC (Brad Sherman)  
SR Consulting, LLC – Cindy Reaves – Representative

Request: Amend the P.D. to permit self-storage/mini-warehouse facility to the Gleneagles Center

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: Collins

AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and Chairman Lowery  
Flinn and Hedgepeth did not cast a vote

**APPROVED**

2. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE EAST SIDE OF TULANE ROAD; +/-98 FEET SOUTH OF SHAYNE LANE, CONTAINING 0.84 ACRE (37,026 SQ. FT.) IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**

Case No. SUP 09-202

Applicants: Tower Ventures V, LLC  
Tower Ventures V, LLC (Billy Orgel) – Representative

Request: Special use permit to allow a cell tower one-hundred sixty (160) feet in height with flush-mount antennae to be located in the rear of the church building

LUCB and OPD recommendation: APPROVAL, with conditions

Chairman Lowery recognized the following persons who spoke from the audience:

Mary B. Akin-Deko, 4898 Tulane Rd., Mphs, TN 38109  
Gabriel Akin-Deko, 4898 Tulane Rd., Mphs, TN 38109  
Pearlie Mason, 4513 White Fox St., Mphs, TN 38109  
Jeff White, 4934 Tulane Rd., Mphs, TN 38109

Friendly Amendment as agreed upon by Billy Orgel (Applicant) and Jeff White (opposition)

Move cell tower 60 feet from the south property line and tower centerline of Mr. White's property

MOTION: Morrison  
SECOND: Ford  
AYES: Collins, Conrad, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
NAYS: Brown  
Flinn recused  
Halbert abstained  
Boyd did not cast a vote

**APPROVED**, as amended

**CONSENT AGENDA – Items 6-16 may be acted upon by one motion: SEE PAGE 2860 FOR ROLL CALL**

6. **ORDINANCE AMENDING THE CURRENT PENSION ORDINANCE BY ESTABLISHING A RETURN MULTIPLE FOR GENERAL EMPLOYEES WITH 16 TO 20 YEARS OF SERVICE WHO ELECT TO RECEIVE A LUMP SUM PAYMENT UPON RETIREMENT OR TERMINATION.**

**THIS AMENDMENT ALSO REVISES THE DEFINITION OF A CHILD AND A SPOUSE AS DEFINED PER THE ORDINANCE AND CLARIFIES THE LANGUAGE RELATIVE TO PROVIDING HEALTHCARE FOR PERSONS RECEIVING LUMP SUM PAYMENTS, UP FOR F I R S T READING.**

Ordinance No. 5303

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

7. **ORDINANCE TO PROHIBIT SCHOOL BUS DRIVERS FROM USING MOBILE TELEPHONES WHILE TRANSPORTING CHILDREN, UP FOR F I R S T READING.**

Ordinance No. 5304

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

8. **ORDINANCE TO REQUIRE MOTOR VEHICLES TO GIVE THREE FEET CLEARANCE WHEN PASSING BICYCLES, UP FOR F I R S T READING.**

Ordinance No. 5305

**APPROVED**, on First reading

9. **ORDINANCE TO ESTABLISH A PENALTY FOR NON-EMERGENCY 911 CALLS, UP FOR F I R S T READING.**

Ordinance No. 5306

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

10. **ORDINANCE TO ESTABLISH A PENALTY FOR TRANSPORTING MINORS IN THE BED OF TRUCKS, UP FOR F I R S T READING.**

Ordinance No. 5307

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

11. **ORDINANCE TO AMEND THE FINANCIAL RESPONSIBILITY ORDINANCE TO MIRROR THE STATE FINANCIAL RESPONSIBILITY LAW, UP FOR F I R S T READING.**

Ordinance No. 5308

**APPROVED**, on First reading

12. **ORDINANCE TO PROHIBIT THE USE OF OFF-HIGHWAY MOTOR VEHICLES ON HIGHWAYS, UP FOR F I R S T READING.**

Ordinance No. 5309

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

13. **ORDINANCE TO ESTABLISH AN OPEN CONTAINER LAW, UP FOR F I R S T READING.**

Ordinance No. 5310

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

**APPROVED**, on First reading

14. **ORDINANCE TO ESTABLISH A PENALTY FOR OPERATING LOW SPEED VEHICLES ON CITY STREETS, UP FOR F I R S T READING.**

Ordinance No. 5311

**APPROVED**, on First reading

15. **RESOLUTION APPROVING FINAL PLAT OF R.N. WALLACE ET. AL. C-P, PH. 1 REVISED.**

Case No. Z 00-009

Resolution approves the final located at the southeast corner of Frayser Blvd. and Range Line Road. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

**APPROVED**

16. **RESOLUTION APPROVING FINAL PLAT OF THE GALLERIA OF MEMPHIS PD, AMENDED, PH. 13 (ROAD DEDICATION ONLY).**

Case No. PD 04-312

Contract No. CR-5137

Resolution approves the final plat located at the terminus of Market Plaza Drive, west of Germantown Parkway. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

**APPROVED**

**ROLL CALL CONSENT ITEMS**

MOTION: Ware

SECOND: Boyd

AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Brown did not cast a vote

**APPROVED**

**MLGW FISCAL CONSENT – Items 17-23 may be acted upon by one motion:**

17. **RESOLUTION AWARDDING CONTRACT NO. 11290, RIGHT-OF-WAY MOWING, TO ROTOLO CONSULTANTS, INC. IN THE FUNDED AMOUNT OF \$236,016.00.**

**APPROVED**

18. **RESOLUTION AWARDDING CONTRACT NO. 11304, INSULATION AND JACKETING REPAIRS, TO INSULATION AND REFRACTORIES SERVICES, INC., IN THE FUNDED AMOUNT OF \$34,500.00.**

**APPROVED**

19. **RESOLUTION APPROVING CHANGE NO. 6 TO CONTRACT NO. 9955, PARTIAL FUNDING OF POLLUTION CONTROL/GROUND WATER QUALITY CONTROL PROGRAM, WITH MEMPHIS & SHELBY COUNTY HEALTH DEPARTMENT, IN THE FUNDED AMOUNT OF \$141,017.80. (THIS CHANGE RENEWS THE CONTRACT FOR 2009).**

**APPROVED**

20. **RESOLUTION APPROVING CHANGE NO. 8 TO CONTRACT NO. 10979, NETWORK MAINTENANCE, WITH VENTURE TECHNOLOGIES IN THE FUNDED AMOUNT OF \$511,407.25. (THIS CHANGE EXTENDS THE CURRENT CONTRACT TO INCLUDE AN ADDITIONAL ONE-YEAR TERM, JULY 1, 2009 TO JUNE 30, 2010, TO ALLOW TIME TO RE-BID THE CONTRACT).**

**APPROVED**

21. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11190, MOWING/GROUNDS MAINTENANCE WELL LOTS, WITH BEAN & PRINCE CONTRACTORS, INC., IN THE FUNDED AMOUNT OF \$61,228.44. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, MAY 17, 2009 TO MAY 16, 2010, AND INCLUDES A 2.7% INCREASE TO REMAIN IN COMPLIANCE WITH THE MANDATE OF THE CITY OF MEMPHIS LIVING WAGE ORDINANCE).**

**APPROVED**

22. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11258, GROUNDS MAINTENANCE, WITH BEAN & PRINCE CONTRACTORS, INC., IN THE FUNDED AMOUNT OF \$617,752.45. (THIS CHANGE RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, MAY 16, 2009 TO MAY 15, 2010, AND INCLUDES A 2.7% INCREASE TO REMAIN IN COMPLIANCE WITH THE MANDATE OF THE CITY OF MEMPHIS LIVING WAGE ORDINANCE).**

**APPROVED**

23. **RESOLUTION AWARDDING CONTRACT FOR THE PURCHASE AND INSTALLATION OF SIX FUEL DISPENSERS AT THE NORTH SERVICE CENTER TO THE SOUTHERN COMPANY, IN THE AMOUNT OF \$43,677.00.**

**APPROVED**

**MLGW ROLL CALL CONSENT ITEMS**

MOTION: Ware  
SECOND: Morrison  
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgpeeth, Morrison, Strickland,  
Ware and Chairman Lowery  
NAYS: Conrad  
Brown did not cast a vote

**APPROVED**

24. **ORDINANCE TO AMEND CHAPTER 5 OF THE CODE OF ORDINANCES SO AS TO PROHIBIT THE ROADSIDE SALE OF ANIMALS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5300

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

MOTION: Strickland – Several changes that need to be made pursuant to the request of three City divisions (see tickler file for amendments).

MAIN MOTION: Brown

SECOND: Strickland

AYES: Boyd, Collins, Conrad, Flinn, Halbert, Hedgepeth, Morrison and Strickland

NAYS: Ware

Brown, Ford, Fullilove and Lowery did not cast a vote

**APPROVED**, as amended

25. **RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF NOT TO EXCEED \$85,000,000.00 PRINCIPAL AMOUNT OF CITY OF MEMPHIS, TENNESSEE, GENERAL IMPROVEMENT BOND SERIES 2009A FOR THE PURPOSE OF REFUNDING OUTSTANDING COMMERCIAL PAPER.**

MOTION: Halbert

SECOND: Morrison

AYES: Boyd, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

Brown and Flinn did not cast a vote

**APPROVED**

26. **RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF NOT TO EXCEED \$150,000,000.00 PRINCIPAL AMOUNT OF CITY OF MEMPHIS BOND ANTICIPATION NOTES FOR THE PURPOSE OF FINANCING VARIOUS PUBLIC WORKS PROJECTS OF THE CITY.**

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

MOTION: Halbert

SECOND: Fullilove



AYES: Boyd, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Ware and Chairman Lowery  
Brown, Flinn and Strickland did not cast a vote

**APPROVED**

27. **RESOLUTION ACCEPTING AND APPROPRIATING \$1,108,400.00 IN FEDERAL GRANT FUNDS FROM DEPARTMENT OF HOMELAND SECURITY FOR THE DIVISION OF FIRE SERVICES FOR A TOTAL APPROPRIATION OF \$1,108,400.00.**

MOTION: Hedgepeth  
SECOND: Fullilove  
AYES: Boyd, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Ware and Chairman Lowery  
Brown, Flinn and Strickland did not cast a vote

**APPROVED**

28. **RESOLUTION APPROVING THE FY2010 CONSOLIDATED PLAN AND ACCEPTING AND APPROPRIATING 2009 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME, EMERGENCY SHELTER GRANT (ESG), AND HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) TO THE FY2010 BUDGET FOR THE DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT.**

MOTION: Ford  
SECOND: Fullilove  
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Brown did not cast a vote

**APPROVED**

29. **RESOLUTION APPROVING SALE OF PROPERTY TO THE STATE OF TENNESSEE, LOCATED ON THE SOUTHWEST CORNER OF MILLINGTON-ARLINGTON ROAD AND DONNELL ROAD, FOR THE SUM OF \$1,450.00.**

MOTION: Ware  
SECOND: Boyd  
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Brown and Conrad did not cast a vote

**APPROVED**

30. **RESOLUTION APPROVING CONTRACT OF SALE FOR THE PURCHASE OF PROPERTY FROM WESTCO DEVELOPMENT #12, LLC, LOCATED ON THE NORTHWEST CORNER OF SHELBY DRIVE AND MENDENHALL ROAD, FOR A PROPOSED SUBSTATION FOR THE SUM OF \$650,000.00.**

MOTION: Ware  
SECOND: Boyd  
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison, Strickland,  
Ware and Chairman Lowery  
Brown, and Hedgepeth did not cast a vote

**APPROVED**

31. **RESOLUTION APPROPRIATING \$750,000.00 IN GA01006 “CONFEDERATE PARK – LAW SCHOOL PUBLIC ACCESS” IN CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL, FOR PAYMENT TO THE RIVERFRONT DEVELOPMENT CORPORATION FOR CONSTRUCTION OF THE PROJECT.**

MOTION: Strickland  
SECOND: Morrison  
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison,  
Strickland, Ware and Chairman Lowery  
Brown did not cast a vote

**APPROVED**

32. **RESOLUTION TO PRESENT SCHEMATIC DESIGN FOR RALEIGH BARTLETT MEADOWS PARK IMPROVEMENTS, CIP NUMBER PK04005, FOR CONTINUATION OF THE PROJECT AND BE APPROVED TO COMPLETE PLANS AND SPECIFICATIONS FOR BIDDING PURPOSES.**

MOTION: Strickland  
SECOND: Morrison  
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland,  
Ware and Chairman Lowery  
Brown and Halbert did not cast a vote

**APPROVED**

33. **RESOLUTION TO ACCEPT GRANT FUNDS FROM THE UNIVERSITY OF MEMPHIS FOR FY 2008 BYRNE CONGRESSIONAL MANDATED AWARD – OPERATION SAFE COMMUNITY (OSC): COORDINATOR LAW ENFORCEMENT INITIATIVES IN THE AMOUNT OF \$730,857.00. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE \$730,857.00 IN GRANT FUNDS.**

MOTION: Hedgepeth  
SECOND: Morrison  
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland,  
Ware and Chairman Lowery  
Brown and Halbert did not cast a vote

**APPROVED**

34. **RESOLUTION TO ACCEPT GRANT FUNDS IN THE AMOUNT OF \$1,148,400.00 FROM THE STATE OF TENNESSEE FOR THE IN-SERVICE TRAINING PROGRAM FOR TRAINING FOR 1,914 COMMISSIONED OFFICERS. RESOLUTION ALSO AMENDS FY2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Hedgepeth  
SECOND: Strickland  
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Hedgepeth, Morrison, Strickland,  
Ware and Chairman Lowery  
Flinn and Halbert did not cast a vote

**APPROVED**

35. **RESOLUTION TO RECEIVE AND APPROPRIATE \$35,500.00 FROM THE STATE OF TENNESSEE BUREAU OF HEALTH SERVICES TO BE USED FOR RAPE PREVENTION AND CRISIS SERVICES.**

MOTION: Brown  
SECOND: Fullilove  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,  
Morrison, Strickland, Ware and Chairman Lowery

**APPROVED**

36. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$4,159,100.00 FUNDED BY SEWER FUNDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO SOUTH PLANT EXPANSION PROJECT, PROJECT NUMBER SW02033, TO REPLACE THE COVER AT SOUTH PLANT LAGOON.**

Chairman Lowery recognized the following person who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

MOTION: Boyd  
SECOND: Morrison  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Halbert, Morrison,

Strickland, Ware and Chairman Lowery  
Fullilove and Hedgepeth did not cast a vote

**APPROVED**

**MINUTES**

Approval of the Minutes of the regular meeting of April 7, 2009 with the following motion:

MOTION: Halbert  
SECOND: Morrison  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison,  
Strickland, Ware and Chairman Lowery  
Hedgepeth did not cast a vote

**APPROVED**

**MINUTES**

Approval of the Minutes of the regular meeting of April 21, 2009 for Item #32 only, with the following motion:

MOTION: Strickland  
SECOND: Ford  
AYES: Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison, Strickland,  
Ware and Chairman Lowery  
Boyd and Hedgepeth did not cast a vote

**APPROVED**, set up as Special Item #1

**INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:**

Chairman Lowery recognized the following persons who spoke from the audience:

Walter Broady, III, 4256 Ledbetter Cove, Mphs, TN 38109  
Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128  
Rosemary Winters, 1168 Rozelle St., Mphs, TN 38106

**ADJOURNED MEETING AT 6:45 P.M.**

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

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C H A I R M A N

Attest:

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Deputy Comptroller/Council Records